

Remarks

Status of the Claims

Claims 1-11 are presently pending in the above referenced patent application, hereinafter the "Present Application." In the Examiner's office action, claims 1-13 were rejected under 35 U.S.C. §102 and 112. In response, claim 1 has been amended and claims 12-13 have been cancelled.

Rejections under 35 U.S.C. §112

The Examiner rejected all pending claims under §112 for use of the word 'adapted'. The Examiner, citing MPEP §2173.05(d), stated it was unclear whether the limitations following the phrase 'adapted' are part of the claimed invention. This rejection is respectfully traversed.

At the outset, Applicant responds that use of the phrase 'adapted' or 'adapted to' is by no means a *per se* indefinite rejection. A search on the USPTO website for all issued patents that use the word 'adapted' or 'adapted to' in their claims resulted in a list of 485,220 hits. See, as one of many examples, U.S. Patent No. 7,275,252, which issued on September 25, 2007 and contains the limitation of "a laser diode adapted to produce a laser beam."

Additionally, the Examiner's recitation of MPEP §2173.05(d) is not on point. That section deals with 'exemplary language,' also known as illustrative language, i.e., 'such as' or 'for example'. The term 'adapted to' is not exemplary/illustrative language under any construction, and MPEP 2173.05(d) is not relevant to its interpretation.

The Examiner also cites MPEP §2106 II(c). This section cautions against "language that suggests or makes *optional* but does not require steps to be performed or does not limit a claim to a particular structure" (emphasis added.) The phrase 'adapted' or 'adapted to' is specifically mentioned as a "language that may raise a question" as to whether a claim limitation is actually an optional limitation or not.

The claims of the present invention, however, do not include optional language. Instead, the claim language provides a clear recitation of performance. For example, claim 1 recites, *inter alia*, "the engine is adapted to receive requests in a first language from one client processes and issue responses in the first language to said one of client processes..." The language after 'is adapted' is not optional but something the engine does. It seems clear to Applicant that the engine, through program code or other means, receives requests in a first language from one client processes. Applicant is unsure how that language could even read as optional language. Applicant suspects the term 'adapted' can be indefinite in claims such as "A hook adapted for climbing." In this case, it is not clear whether the hook actually has to be used in climbing to be infringed. There is no such doubt in Applicant's claims, wherein the limitations after the word 'adapted' are laid out clearly and specifically. Thus, since Applicant's language is not optional, MPEP §2106 II(c) is not applicable.

Applicant therefore respectfully submits that, as neither MPEP §§ 2106II(c) nor 2173.05(d) are applicable to Applicant's claim language, the Examiner's §112 rejected is unwarranted.

Rejections under 35 U.S.C. §102(e)

Claims 1-13 stand rejected over 35 U.S.C. §102(e) in view of U.S. Patent No. 6,964,053 to Ho et. al, hereinafter "Ho". Applicant respectfully traverses these rejections.

Discussion of the Present Application

The Present Application recites a computer system for allowing at least two client processes to access data through a server process. It allows data to be shared by the various client processes; in other words, the same data may be accessed at the same time by various client processes. In addition, it makes it possible for the server process to provide data access to various types of clients.

As to the topology and architecture of the Present Application: there is a server process as well as two client processes (page 5, first paragraph). The server process is used to access data 56; it comprises an application and an engine. Importantly, it is emphasized that this is the application that manages the data to be accessed by the user processes and not the engine, as claimed in amended claim 1, *inter alia*, "said server process comprising an application managing said data and an engine, wherein...". Meanwhile the engine acts as an interface between user processes and application.

As to the functioning and according to a typical embodiment (page 6), the engine 60 will receive requests from one of client processes 52, 54 in a first language. Next, according to the content of this request, engine 60 will provide updated properties or events to application 58, or query the application for properties and events. The application will then simply receive from the engine updated properties and/or events, or requests for object's properties. According to the requests, that is, in response to the engine communicating with the application, the application will instantiate objects, evaluate properties of instantiated objects based on data and/or react to events. The updated properties, or the reaction to the events, is forwarded by the application to the engine. The engine then provides an answer, in the first language, to the relevant process or processes, based on the information provided by the application.

Accordingly, the present invention does not provide a "translation" from a user process to a server process, but an issuing response in the first language to said one of client processes according to the objects instantiated by the application and to their properties. Accordingly, this allows data to be shared by the various client processes.

Most importantly, data are never translated or converted to be accessed by several different client processes.

Novelty over Ho et al.

The Examiner rejected claim 1 by comparing the server process of claim 1 to the Common Application Metamodel (CAM) referred to in Ho, stating said CAM comprises both an application and an interface (page 3 of the Office Action, paragraph 3). This comparison is improper for the reasons that follow.

Ho aims at solving problems associated with integrating new applications (col. 3, li. 39 - 40). It relies on a Common Application Metamodel for facilitating notably data translation, communication and collaboration between dissimilar and disparate applications (col. 3, li. 41 - 48).

In particular, as recited in col. 4, paragraph 1, the Common Application Metamodel tool, method, and system of Ho is especially useful for providing a data transformer that is bi-directional *between a client application and a server application*, transmitting commands and data both ways (emphasis added).

Accordingly, the CAM tool acts between a *client application* and a *server application*, just as the engine of the Present Application acts between an *application* of the server process and *client processes*. Furthermore, the CAM tool allows for transmitting data bidirectionally between user processes and server process, just as the engine of the present invention. Thus, the CAM acts as a converter, as recited in col. 4. line 63 of Ho: "The CAM metamodel used to construct the converter []."

Contrary to the present invention, data are converted and after conversion, data are forwarded to the application server, where they are processed. After the data have been processed, they are sent back to the end user application (See Ho col. 4, line 23 - 28): "After conversion, the converted transaction is processed on the application server." The application processes the request and then sends the response from the application server back to the end user application.

Therefore, the CAM tool of Ho acts as converter or translator between end user application data and data as sent to the server application, which somehow compares with the engine of the present invention that acts as an interface between user processes and the application.

Accordingly, it is clear that the CAM tool of Ho **cannot be compared to the application** as in present claim 1 but, rather, could be at most compared with the engine of the present invention. Thus, Ho does not disclose an "**application [] adapted to instantiate objects, to evaluate properties of instantiated objects based on data and to react to events, in response to said engine communicating with said application**" as claimed, *inter alia*, in Applicant's claim 1.

Next, should one compare the server application of Ho to the application as claimed, not all the specific features of the Applicant's claim 1 are in Ho. In particular, the server application of Ho uses COBOL. While the recently introduced object oriented version of COBOL (standardized in 2002, the patent of Ho claiming a priority of 2002 also) has inherently advantages provided by object-oriented programming languages, Ho is silent about how object instantiation, if any, is performed at the level of the server application. The only instantiation evoked by Ho relates to the converter (the CAM tool) and not to the server application. This is actually quite consistent with the fact that the invention of Ho is to provide a data converter/translator between existing applications or between a new application and existing application (hence to integrate new application). This is the reason why Ho relies on a Common Application Metamodel.

Should the server application be able to instantiate objects (which is not disclosed nor suggested), Ho then does not disclose sending back to user processes a response according to said instantiated objects. In any case, Ho does not disclose an "**engine [] adapted to provide updated properties and events to the application in the second language according to requests received**"

in the first language from said one of client processes” as claimed, *inter alia*, in Applicant’s claim 1.

As stated in MPEP §2131: “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.... The identical invention must be shown in as complete detail as is contained in the ... claim.” *Verdigaal Brothers v. Union Oil Company of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Company*, 868 F.2d 1226, 1236, (Fed. Cir. 1989). As every element of Applicants’ claims 1 is not found in Ho, Applicant respectfully submits that rejection under §102 is no longer warranted. As claims 2-11 depend from claim 1, either directly or through intervening claims, they are likewise believed allowable.

Conclusion

Claims 1-11 are now pending and believed to be in condition for allowance. Applicants respectfully request that all pending claims be allowed.

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Respectfully submitted,



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